



City of Duluth  
Planning Division

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## MEMORANDUM

**DATE:** May 8, 2013  
**TO:** Duluth City Planning Commission  
**FROM:** Charles Froseth, Land Use Supervisor  
**SUBJECT:** Environmental Assessment Worksheet (EAW) for USACE 21<sup>st</sup> Avenue West Channel Embayment (PL 13-052)

The purpose of this memo is to provide background and staff recommendation regarding Planning Commission action on the Dredged Material Placement, 21<sup>st</sup> Avenue West Channel Embayment.

The 30-day public comment period for the EAW was from April 1, 2013 to May 1, 2013. As of the date of this memo, a total of **3 comments** were received during the public comment period: Duluth Seaway Port Authority (April 30), MDNR (April 30), and MPCA (May 1). The comments are attached to this memo, as is the responses from the project proposer.

On the May 14, 2013 agenda, the Planning Commission, as the Responsible Governmental Unit (RGU), is to make a determination on the need for an Environmental Impact Statement (EIS). Please reference the attached document titled "Findings of Fact"

### Summary:

The U.S. Army Corps of Engineers Detroit District proposes to place limited quantities of dredged material from maintenance dredging of the Federal navigation project at Duluth-Superior Harbor into the embayment of the 21st Avenue West Channel in Duluth, Minnesota. This will allow for evaluation of using dredged material from maintenance dredging of the harbor for aquatic habitat restoration.

### EAW:

The EAW was provided to the Commissioners as part of their April 9, 2013 Planning Commission packet. The EQB document, "Preparing Environmental Assessment Worksheets," provides guidance in the Commission's determination as to whether an EIS is needed. It notes "The purpose of the EAW, comments and comment responses is to provide the record on which the RGU can base a decision about whether an EIS needs to be prepared for a project. EIS need is described in the rules: An EIS shall be ordered for projects that have the potential for significant environmental effects." The attached also notes four criteria which state;

"In deciding whether a project has the potential for significant environmental effects, the RGU shall compare the impacts that may reasonably be expected to occur from the project with the criteria in this rule, considering the following factors (part 4410.1700, subparts 6 and 7):

A. Type, extent, and reversibility of environmental effects;

- B. Cumulative potential effects of related or anticipated future projects;
- C. The extent to which environmental effects are subject to mitigation by ongoing public regulatory authority; and
- D. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other Environmental Impact Statements."

**Timeline:**

The public comment period for this EAW started on April 1, 2013, and ended May 1, 2013. The RGU has 3 to 30 working days to decide if the project needs an Environmental Impact Statement (EIS), prepare the findings of fact and respond to comments.

Timeline

March 27, 2013	News Release submitted to the Duluth News Tribune and city's web page.
March 27, 2013	Copies of the EAW distributed to EQB's Official List
April 1, 2013	Notice of EAW published in the EQB Monitor - start of the 30 day comment period
April 9, 2013	Planning Commission heard public comments (optional)
May 1, 2013	End of the 30 day comment period
May 14, 2013	Planning Commission makes a determination on the need for an EIS

**Recommendation:**

Based on the Environmental Assessment Worksheet, the Findings of Fact and Record of Decision, and related documentation for this project, Staff recommends that the Planning Commission makes a Negative Declaration and does not require the development of an Environmental Impact Statement (EIS) for this project.

# Draft Findings



**DRAFT FINDINGS OF FACT AND RECORD OF DECISION**  
**ENVIRONMENTAL ASSESSMENT WORKSHEET**

For the US Army Corps of Engineers 21<sup>st</sup> Avenue West Channel Embayment

**Responsible Governmental Unit: City of Duluth**

**Contact Person:**

Charles Froseth, Land Use Supervisor  
Planning Division  
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Duluth, MN 55802-1198

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**Proposer: US Army Corps of Engineers**

**Contact Person:**

Terry Long  
477 Michigan Avenue  
Detroit, Michigan 48226

**Email:** [Terry.A.Long@usace.army.mil](mailto:Terry.A.Long@usace.army.mil)

**I. ENVIRONMENTAL REVIEW AND RECORD OF DECISION**

The City of Duluth prepared a mandatory Environmental Assessment Worksheet (EAW) according to the Environmental Review Rules of the Minnesota Environmental Quality Board (EQB) under Rule 4410.4300.

The U.S. Army Corps of Engineers Detroit District proposes to place limited quantities of dredged material from maintenance dredging of the Federal navigation project at Duluth-Superior Harbor into the embayment of the 21st Avenue West Channel in Duluth, Minnesota. This will allow for evaluation of using dredged material from maintenance dredging of the harbor for aquatic habitat restoration.

**II. EAW NOTIFICATION AND DISTRIBUTION**

On March 27, 2013, the City distributed the EAW to the official EQB mailing list. The comment period started April 1 and ended at 4:30 PM on May 1, 2013.



### **III. COMMENT PERIOD, PUBLIC MEETING, AND RECORD OF DECISION**

The Planning Commission of the Duluth City Council considered the EAW during its April 9, 2013, and May 14, 2013 regular meetings. Notification of the dates of these public meeting was included with the EAW mailing to the EAW Distribution List.

### **IV. SUBSTANTIVE COMMENTS RECEIVED AND RESPONSES TO THESE COMMENTS**

A total of three comments were received (in order of date of receipt)

- 1 Duluth Seaway Port Authority (April 30)
- 2 MDNR (April 30)
- 3 MPCA (May 1)

The following section provides a summary of these comments and responses to them. Comment letters are available for review in Enclosure B.

#### **1. Duluth Seaway Port Authority dated April 30, 2013**

Comment: Letter of support.

Response: No response needed.

#### **2. Minnesota Department of Natural Resources dated April 30, 2013**

Comment: 5 questions/comments

Response: See attached response letter from USACE.

#### **3. Minnesota Pollution Control Agency dated May 1, 2013**

Comment: 12 questions/comments.

Response: See attached response letter from USACE

### **V. DRAFT DECISION ON THE NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT**

Based on the Environmental Assessment Worksheet, comments received during the comment period, and responses to the questions raised and issue identified, the Planning Division recommends that the Duluth City Planning Commission, the responsible governmental unit (RGU) for this environmental review, concludes the following:

1. The Environmental Assessment Worksheet, this "Findings of Fact and Record of Decision" document, and related documentation for the project that were prepared in compliance with the procedures of the Minnesota Environmental Policy Act and Minn. Rules, Parts 4410.1000 to 4410.1700.
2. The Environmental Assessment Worksheet, this "Findings of Fact and Record of Decision" document, and related documentation for the project have satisfactorily addressed all of the issues for which existing information could have been reasonably obtained.
3. The project does not have the potential for significant environmental effects based upon the above findings and the evaluation of the following four criteria (per Minn. Rules, Parts 4410.1700 Subp. 7):
  - Type, extent, and reversibility of environmental effects.
  - Cumulative effects of related or anticipated future projects.
  - Extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.
  - Extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of environmental reviews previously prepared on similar projects.
4. The finding by the City that the EAW is adequate and no EIS is required provides no endorsement, approval or right to develop the proposal by the City and cannot be relied upon as an indication of such approval.

Consequently, the City makes a Negative Declaration and does not require the development of an Environmental Impact Statement (EIS) for this project. Note that this decision has no impact on the question of ownership and the Public Trust Doctrine raised by the Minnesota Department of Natural Resources.

# Responses



Craig L. Engwall  
Northeast Regional Director  
Minnesota Department of Natural Resources  
1201 East Hwy 2  
Grand Rapids, MN 55744

Dear Mr Engwall,

Thank you for your comments of April 30, 2013, on the Environmental Assessment Worksheet review for Dredged Material Placement, 21<sup>st</sup> Avenue West Channel Embayment, Duluth, Minnesota. As you request, we will attach your March 12, 2013, letter commenting on the U.S. Army Corps of Engineers (USACE) Environmental Assessment as part of our EAW record. We also will attach their response letter of March 21, 2013. The following addresses your remaining comments.

**Comment:** “The proposed project has the potential to develop the inter-agency process between the USACE and Area of Concern (AOC) Partners (MNDNR, MPCA and WDNR) that will be necessary to integrate the use of clean maintenance dredge material to achieve restoration outcomes in the AOC.”

**Response:** Noted. We look forward to inter-agency and cooperation and involvement in habitat restoration projects throughout the harbor.

**Comment:** “A project funded by USFWS and completed in 2013 identified existing conditions and developed a model that predicts habitat outcomes of potential restoration scenarios based on depth, fetch and substrate type. Site specific sampling indicates that plant growth at the site is severely limited based on condition of the substrate and other unknown variables. We understand that the St. Louis River AOC Coordinators have worked in cooperation with the USACE to develop a strategy that will utilize maintenance dredge material in a pilot project to determine the materials ability to support plant growth and patterns of sediment movement once the material is placed in the project site. The proposed action is considered an important first step to understanding the limiting factors at the site and a beginning to the understanding how clean dredge material will react when placed in these high priority restoration locations in the industrialized harbor.”

**Response:** Noted. We look forward to the monitoring results from the pilot project so that we can move forward towards a better informed restoration project for the entire 21<sup>st</sup> Avenue West Embayment and other sites in the harbor.

**Comment:**

“Section 2.5

Placement of material during the project will be entirely below the OHW. The State of Minnesota owns all submerged lands in the Minnesota portion of the Duluth-Superior Harbor below the ordinary low water mark in trust for people for public uses. In the case where parties

have placed fill below the Ordinary High Water Level extending onto the beds of navigable waters, the state maintains ownership of the submerged lands as it continues to have an interest in the public rights to use the submerged lands.

“In exerting "navigational servitude", the USCOE served submerged land owners with a notice that the land would be taken without compensation for dredged material placement. It is likely that the state has ownership of submerged lands below the Ordinary Low Water Level, therefore, the use of parcel data or tax assessor records may not be an acceptable method to determine ownership.”

**Response:** The 21st Avenue project lies in navigable waters of the United States. All navigable waters are under the control of the United States for the purpose of regulating and improving navigation and although the title to the shore and submerged land is in the name of various states and individual owners, it is always subject to the servitude in respect of navigation created in favor of the Federal Government by the Constitution.

### **Section 3.49**

**Comment:** “Could you please provide documentation of State Listed species present within 1 mile of the project area and how it was determined they would not be affected. If you have any questions, please Contact Lisa Joyal, Endangered Species Review Coordinator at 651 -259-5109 for more information.”

**Response:** Effects of the proposed dredged material placement would be limited to within approximately a quarter mile of the placement area. The placement site is entirely within T49N, R14W, Section 4. The area of potential effects, extending to the ordinary high water mark and including the immediate adjacent green areas along the shore and highways that border the embayment on the north and east, also include a small area in T50N, R14W, Section 33, near the mouths of Coffee and Miller Creeks. As the 21<sup>st</sup> Avenue project and it's area of potential effects are within the one-mile radius of the the CN Dock 6 Stabilization and Stockpile Expansion project recently reviewed by the MDNR, we have viewed the Minnesota Natural Heritage Information System Index Report of records for that project (MDNR correspondence # ERDB 20130187, February 15, 2013). The MDNR correspondence for that project states that, “the common tern, peregrine falcon, and lake sturgeon have been documented within the search area” (for the CN Dock project). Of these listings, only the common tern was included in the listings for the two sections noted above that are associated with the area of effects on the 21<sup>st</sup> Avenue dredged material placement project. Since there is no tern habitat in or adjacent to the 21<sup>st</sup> Avenue Embayment that would be affected by the proposed dredged material placement, we have determined the project would not affect State-listed species.

**Comment:** “The DNR appreciates the coordination that has been occurring between the USACE and 21<sup>st</sup> Avenue Restoration Team and St. Louis River Area of Concern Coordinators throughout the development of this pilot project proposal and would like to note that your stated intent to continue this effort remains a critically important aspect of the ongoing review of this project. The identification of 21<sup>st</sup> Avenue West in the St. Louis River AOC Implementation Framework as a priority remediation to restoration site means that several entities will be



working toward improvements here, thus elevating the need for effective communication to ensure actions remain consistently in alignment with Framework goals and priorities.”

**Response:** Noted. The Minnesota Pollution Control Agency has taken the lead on monitoring this project and has already begun the contracting process for a variety of monitoring efforts. Monitoring results will be shared with the Area of Concern Coordinators and the several Federal and State agencies involved.

We appreciate your support of the proposed project to evaluate potential for habitat restoration with dredged material in the 21<sup>st</sup> Avenue West Embayment. This project is an important step to better dredged material management in the harbor as well as restoration of degraded habitats.





## Minnesota Department of Natural Resources

Division of Ecological and Water Resources, Box 25

500 Lafayette Road

St. Paul, Minnesota 55155-4025

Phone: (651) 259-5109 E-mail: [lisa.joyal@state.mn.us](mailto:lisa.joyal@state.mn.us)

February 15, 2013

Correspondence # ERDB 20130187

Ms. Raneé Beaumier  
Krech Ojard & Associates  
2227 W 1st Stree, Suite 200  
Duluth, MN 55802

RE: Natural Heritage Review of the proposed CN Dock 6 Stabilization and Stockpile Expansion,  
St. Louis County

Dear Ms. Beaumier,

County	Township (N)	Range (W)	Section(s)
69	49	14	4,5,8,9

As requested, the Minnesota Natural Heritage Information System has been queried to determine if any rare species or other significant natural features are known to occur within an approximate one-mile radius of the proposed project. Based on this query the common tern, peregrine falcon, and lake sturgeon have been documented within the search area (for details, see the enclosed database reports; please visit the Rare Species Guide at <http://www.dnr.state.mn.us/rsg/index.html> for more information on the biology, habitat use, and conservation measures of these rare species). The Environmental Assessment Worksheet should address whether the proposed project has the potential to adversely affect these rare features and, if so, any avoidance or mitigation measures that will be implemented.

The Natural Heritage Information System (NHIS), a collection of databases that contains information about Minnesota's rare natural features, is maintained by the Division of Ecological and Water Resources, Department of Natural Resources. The NHIS is continually updated as new information becomes available, and is the most complete source of data on Minnesota's rare or otherwise significant species, native plant communities, and other natural features. However, the NHIS is not an exhaustive inventory and thus does not represent all of the occurrences of rare features within the state. Therefore, ecologically significant features for which we have no records may exist within the project area. If additional information becomes available regarding rare features in the vicinity of the project, further review may be necessary.

The enclosed results include an Index Report and a Detailed Report of records in the Rare Features Database, the main database of the NHIS. To control the release of specific location information, which might result in the destruction of a rare feature, both reports are copyrighted.

The Index Report provides rare feature locations only to the nearest section, and may be reprinted, unaltered, in an environmental review document (e.g., EAW or EIS), municipal natural resource plan, or report compiled by your company for the project listed above. If you wish to reproduce the index report for any other purpose, please contact me to request written permission. **The Detailed Report is for your personal use only as it may include specific location information that is considered nonpublic data under Minnesota Statutes, section 84.0872, subd. 2. If you wish to reprint or publish the Detailed Report for any purpose, please contact me to request written permission.**

For environmental review purposes, the Natural Heritage letter and database reports are valid for one year; they are only valid for the project location (noted above) and the project description provided on the NHIS Data Request Form. Please contact me if project details change or if an updated review is

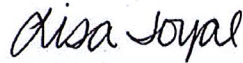
needed.

Please note that locations of the gray wolf (*Canis lupus*), state-listed as special concern, and the Canada lynx (*Lynx canadensis*), federally-listed as threatened, are not currently tracked in the NHIS. As such, the Natural Heritage Review does not address these species.

Furthermore, the Natural Heritage Review does not constitute review or approval by the Department of Natural Resources as a whole. Instead, it identifies issues regarding known occurrences of rare features and potential effects to these rare features. Additional rare features for which we have no data may be present in the project area, or there may be other natural resource concerns associated with the proposed project. For these concerns, please contact your DNR Regional Environmental Assessment Ecologist (contact information available at [http://www.dnr.state.mn.us/eco/ereview/erp\\_regioncontacts.html](http://www.dnr.state.mn.us/eco/ereview/erp_regioncontacts.html)). Please be aware that additional site assessments or review may be required.

Thank you for consulting us on this matter, and for your interest in preserving Minnesota's rare natural resources. An invoice will be mailed to you under separate cover.

Sincerely,



Lisa Joyal  
Endangered Species Review Coordinator

enc.     Rare Features Database: Index Report  
          Rare Features Database: Detailed Report  
          Rare Features Database Reports: An Explanation of Fields

cc:     Ryan Reed  
          Maya Hamady  
          Patricia Fowler

Client ID # 1144  
Company ID # 1116



# **Rare Features Database:**

Element Name and Occurrence Number	Federal Status	MN Status	Draft Status	SGCN Status	State Rank	Global Rank	Last Obs Date	EO ID #
<b>Vertebrate Animal</b>								
<u>Acipenser fulvescens</u> (Lake Sturgeon) #115 T49N R14W S8; St. Louis County		SPC	no chang	SGCN	S3	G3G4	2002-07-08	23172
<u>Charadrius melodus</u> (Piping Plover) #1 T49N R13W S18, T49N R13W S19, T49N R13W S20, T49N R14W S13, T [...]; St. Louis County	LE,LT	END	no chang	SGCN	S1B	G3	2000	1467
<u>Falco peregrinus</u> (Peregrine Falcon) #60 T49N R14W S10, T49N R14W S3; St. Louis County	No Status	THR	SPC	SGCN	S2B	G4	2006	19016
<u>Sterna hirundo</u> (Common Tern) #1 T49N R14W S10, T49N R14W S11, T49N R14W S2, T49N R14W S3; St. Louis County		THR	no chang	SGCN	S2B	G5	1987	25197
<u>Sterna hirundo</u> (Common Tern) #3 T49N R14W S17, T49N R14W S18, T49N R14W S7, T49N R14W S8; St. Louis County		THR	no chang	SGCN	S2B	G5	1985	25191
<u>Sterna hirundo</u> (Common Tern) #23 T49N R14W S10, T49N R14W S3, T49N R14W S4, T49N R14W S9; St. Louis County		THR	no chang	SGCN	S2B	G5	1997	25205
<u>Sterna hirundo</u> (Common Tern) #24 T49N R14W S17, T49N R14W S18, T49N R14W S7, T49N R14W S8; St. Louis County		THR	no chang	SGCN	S2B	G5	1979	25204
<b>Invertebrate Animal</b>								
<u>Cicindela hirticollis rhodensis</u> (Hairy-necked Tiger Beetle) #2 T49N R14W S3; St. Louis County		SPC	END	SGCN	S3	G5T4	1974-06-23	27961
<b>Animal Assemblage</b>								
<u>Colonial Waterbird Nesting Area</u> (Colonial Waterbird Nesting Site) #617 T49N R14W S10, T49N R14W S3, T49N R14W S4, T49N R14W S9; St. Louis County		N/A			SNR	GNR	1985	871
<u>Colonial Waterbird Nesting Area</u> (Colonial Waterbird Nesting Site) #722 Just outside Minnesota in adjacent jurisdiction(s); Non-MN County - Located just outside Minnesota in adjacent jurisdiction(s).		N/A			SNR	GNR	1989-06-01	9754
<b>Vascular Plant</b>								
<u>Adoxa moschatellina</u> (Moschatel) #25 T49N R14W S5, T49N R14W S6, T50N R14W S31, T50N R14W S32; St. Louis County		SPC	Watchlist		S3	G5	1939-06-08	3340



## Rare Features Database:

Element Name and Occurrence Number	Federal Status	MN Status	Draft Status	SGCN Status	State Rank	Global Rank	Last Obs Date	EO ID #
Other (Ecological)								
Igneous unit or sequence (middle proterozoic) #6 T50N R14W S28, T50N R14W S29, T50N R14W S32, T50N R14W S33; St. Louis County		N/A			SNR	GNR	1975	187

Records Printed = 12

Minnesota's endangered species law (*Minnesota Statutes*, section 84.0895) and associated rules (*Minnesota Rules*, part 6212.1800 to 6212.2300 and 6134) prohibit the taking of threatened or endangered species without a permit. For plants, taking includes digging or destroying. For animals, taking includes pursuing, capturing, or killing.

## An Explanation of Fields:

**Element Name and Occurrence Number:** The Element is the name of the rare feature. For plant and animal species records, this field holds the scientific name followed by the common name in parentheses; for all other elements it is solely the element name. Native plant community names correspond to Minnesota's Native Plant Community Classification (Version 2.0). The Occurrence Number, in combination with the Element Name, uniquely identifies each record.

**Federal Status:** The status of the species under the U.S. Endangered Species Act: LE = endangered; LT = threatened; LE,LT = listed endangered in part of its range, listed threatened in another part of its range; L,T,PDL = listed threatened, proposed for delisting; C = candidate for listing. If null or 'No Status,' the species has no federal status.

**MN Status:** The legal status of the plant or animal species under the Minnesota Endangered Species Law: END = endangered; THR = threatened; SPC = special concern; NON = tracked, but no legal status. Native plant communities, geological features, and colonial waterbird nesting sites do not have any legal status under the Endangered Species Law and are represented by a N/A.

**Draft Status:** Proposed change to the legal status of the plant or animal species under the Minnesota Endangered Species Law: END = endangered; THR = threatened; SPC = special concern; Watchlist = tracked, but no legal status.

**SGCN Status:** SGCN = The species is a Species in Greatest Conservation Need as identified in Minnesota's State Wildlife Action Plan (<http://www.dnr.state.mn.us/cwcs/index.html>). This designation applies to animals only.

**State Rank:** Rank that best characterizes the relative rarity or endangerment of the taxon or plant community in Minnesota. The ranks do not represent a legal status. They are used by the Minnesota Department of Natural Resources to set priorities for research, inventory and conservation planning. The state ranks are updated as inventory information becomes available. S1 = Critically imperiled in Minnesota because of extreme rarity or because of some factor(s) making it especially vulnerable to extirpation from the state. S2 = Imperiled in Minnesota because of rarity or because of some factor(s) making it very vulnerable to extirpation from the state. S3 = Vulnerable in Minnesota either because rare or uncommon, or found in a restricted range, or because of other factors making it vulnerable to extirpation. S4 = Apparently secure in Minnesota, usually widespread. S5 = Demonstrably secure in Minnesota, essentially ineradicable under present conditions. SH = Of historical occurrence in the state, perhaps having not been verified in the past 20 years, but suspected to be still extant. An element would become SH without the 20-year delay if the only known occurrences in the state were destroyed or if it had been extensively and unsuccessfully looked for. SNR = Rank not yet assessed. SU = Unable to rank. SX = Presumed extinct in Minnesota. SNA = Rank not applicable. S#S# = Range Rank: a numeric range rank (e.g., S2S3) is used to indicate the range of uncertainty about the exact status of the element. S#B, S#N = Used only for migratory animals, whereby B refers to the breeding population of the element in Minnesota and N refers to the non-breeding population of the element in Minnesota.

**Global Rank:** The global (i.e., range-wide) assessment of the relative rarity or imperilment of the species or community. Ranges from G1 (critically imperiled due to extreme rarity on a world-wide

Minnesota Natural Heritage Information System  
Index Report of records within 1 mile radius of:  
ERDB# 20130187 - CN Dock 6 Stabilization & Stockpile Expan.  
T49N R14W Sections 4,5,8,&9  
St. Louis County

basis) to G5 (demonstrably secure, though perhaps rare in parts of its range). Global ranks are determined by NatureServe, an international network of natural heritage programs and conservation data centers.

**Last Observed Date:** Date that the Element Occurrence was last observed to be extant at the site in format YYYY-MM-DD.

**EO ID #:** Unique identifier for each Element Occurrence record.

**Element Occurrence:** An area of land and/or water in which an Element (i.e., a rare species or community) is, or was, present, and which has practical conservation value for the Element as evidenced by potential continued (or historical) presence and/or regular recurrence at a given location. Specifications for each species determine whether multiple observations should be considered 1 Element Occurrence or 2, based on minimum separation distance and barriers to movement.



Craig Affeldt  
Supervisor, Environmental Review Unit  
Resource Management and Assistance Division  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194

Dear Mr. Affeldt,

Thank you for your comments of May 1, 2013, on the Environmental Assessment Worksheet review for Dredged Material Placement, 21<sup>st</sup> Avenue West Channel Embayment. The following addresses your comments.

**“Description of Proposed Action (Sections 2.4 to 2.11)”**

**Comment:** “2.7- The document indicates that some placed materials would extend (spread) beyond the target locations; however, the EA/EAW did not describe what efforts will be undertaken to document the placement of dredged materials once placement is completed (e.g., physical locations and material thicknesses). We recommend that this type of information should be collected to aid and inform future evaluation of the stability and effectiveness of the placement.”

**Response:** The U.S. Army Corps of Engineers (USACE) has conducted a bathymetric survey of the placement vicinity and intends to conduct several more surveys for the purpose of evaluating sediment stability of the placed material. Your agency (contact Mr. Dan Breneman) will be preparing a material response evaluation to include pre- and post- sampling coordinated with the USACE (MPCA CR# 6503). Test plot conditions will be evaluated using pre- and post-placement observations and sediment particle size analysis. Survey markers will be referenced for repeat observations. Standard Operating Procedures will be documented in a project specific QAPP that will be reviewed and approved prior to project start.

**Comment:** “2.9- The proposal to add organic medium on top of the dredged material is a connected action to the proposed project and should be treated as a project component to be addressed in greater detail. This would include information regarding the physical makeup of this material and its suitability for use at shallow depths where the material may be subjected to river currents and wave energy.”

**Response:** The addition of organic material to select areas is an option that the Minnesota Department of Natural Resources (MDNR) may pursue; however, at this time there is not sufficient information on the particular material that may be used to address it in detail. As the placement of organic material on select plots, if it occurs, is not a part of the USACE project, please contact Mr. John Lindgren of MDNR for further information on this proposal.



**Comment:** “2.10 & 2.11- Biological monitoring is referenced, but the document provides no specifics regarding how the monitoring will be conducted, what parameters will be assessed and what methods will be used. Future monitoring will be important to aid in evaluating the overall effectiveness of mitigation measures.”

**Response:** Please contact Mr. Dan Breneman of your agency for information on the monitoring, which your agency will be conducting. Mr. Breneman has indicated that “MPCA has contracted a series of monitoring projects focused on 21st Ave. An aquatic vegetation survey and a laboratory microcosm growth study will be conducted by the University of Minnesota (MPCA CR#6403). Test plot conditions will be evaluated using pre- and post-placement observations, with reference condition comparisons used where appropriate to identify factors limiting SAV assemblage structure at 21st Ave. Standard Operating Procedures will be documented in a project specific QAPP that will be reviewed and approved prior to project start.”

### **Miscellaneous Details (Sections 2.12 to 2.15)**

**Comment:** “2.12- The EA/EAW did not indicate to what extent will the manner in which dredged material is placed (mechanical or hydraulic) affect the stability of the placed materials, dispersion of materials, or contribute to greater suspension of sediments in the water column. The environmental review should compare and contrast the advantages and disadvantages of the two methods proposed for sediment placement, especially as they relate to water quality and sediment suspension.”

**Response:** Because of the shallow depths in most of the placement areas it is not expected that mechanical placement will occur. Therefore, the EA evaluates the expected scenario of hydraulic placement. Both options are left open to the construction contractor to allow for ingenuity in placement techniques which will allow for the work to be performed as efficiently and effectively as possible. Additionally, USACE’s contract requires the contractor to minimize the displacement of existing sediments during placement operations. If mechanical placement occurs, the effects as described would be reduced. Since the worse case effects are covered, there would be no need to revisit the analysis.

**Comment:** “2.13 & 2.14- The EA/EAW provided no specific details on the extent of the proposed land disturbing activities associated with the Project, including upland stockpiling of materials. If the Project will disturb a total of one acre or more of land, a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit {CSW Permit} is required from the MPCA. The owner and operator (usually the general contractor) are jointly responsible for obtaining and complying with the conditions of the CSW Permit. A detailed Stormwater Pollution Prevention Plan {SWPPP}, containing stormwater management requirements both during and post construction, as well as erosion control and sediment control requirements during construction, must be prepared prior to submitting a CSW Permit application. CSW Permit coverage is required prior to commencing land disturbing activities (i.e., clearing, grading, filling, or excavating) relating to the Project. For an overview of this permit and program, please refer to the following factsheet:

<http://www.pca.state.mn.us/publications/wq-strm2-05.pdf>. Questions regarding CSW Permit requirements should be directed to Roberta Getman at 507-206-2629.”



**Response:** There are no land disturbing activities. The construction contractor will be operating strictly from the water. Any equipment brought to the site by truck would be required to use existing commercial and/or public launch sites and docks to enter the waterway.

### **Section 3.0 (Sections 3.1 to 3.2)**

**Comment:** “3.2- This section discussed the potential benefits that may result from the Project; however, it was also stated that beyond sediment placement, no active measures will be taken to achieve benefits to aquatic resources. The EA/EAW should discuss how benefits from the Project will be measured or determined.”

**Response:** Correct. Other than the potential addition of organic medium to some plots by the MDNR, this is a passive placement to see what habitat may develop naturally. If sufficient vegetation is not occurring, then the process would be re-evaluated in conjunction with the interested agencies to determine what measures may be taken to improve the results. Benefits will be measured as part of your agency’s monitoring plan being processed by Mr. Dan Breneman. The MPCA contract previously mentioned (MPCA CR#6403) in response to “2.10 & 2.11- Biological monitoring...” will identify the benefits of the proposed placement of materials through increases in habitat complexity and damping wave energy impacts on sediment stability. Biological response through improved assemblage structure is the targeted outcome. Metrics and/or measures to perform the analysis and used when interpreting the results will be outlined in the QAPP and further justified in a project summary report.

### **Water Quality (Sections 3.12 to 3.21)**

**Comment:** “The St. Louis River has numerous impairments for aquatic consumption and aquatic recreation, as listed on MPCA's 303(d) Impaired Waters List. The EA/EAW did not evaluate whether the proposed activities will in any way contribute to these impairments and/or otherwise exacerbate existing water quality or habitat conditions. This should be addressed during the course of this review.”

**Response:** The EA and 404(b)(1) Evaluation conclude that the project will not have significant adverse effects on water quality. As such, aquatic consumption impairments and recreational impairments would not be worsened by the proposed dredged material placement, even in the event that no aquatic habitat develops. The MPCA is coordinating a bi-State program to address BUIs in the St. Louis River AOC and recommend action steps for eventual delisting (MPCA CR# 5852). Assessment areas such as 21st Avenue West are currently adding significantly to the degradation of benthos BUI. Resource agency staff have proposed conceptual plans with the intent of improving benthic assemblage structure by increasing habitat complexity. The proposed deposition of materials is fundamental to the restoration goals at 21st Ave. West and a series of other assessment areas.

**Comment:** “3.15- The project area is near the mouths of Miller Creek and Coffee Creek, and the Western Lake Superior Sanitary District (WLSSD) wastewater discharge. Miller and Coffee creeks deliver sediment and nutrients to the 21st Avenue West embayment, and the WLSSD



discharge contributes warmer water temperatures and nutrients to the area. Information should be provided regarding the residence time of the embayment, how that will be changed by the Project and to what extent the project will affect the water quality of the embayment and/or change flow patterns.”

**Response:** An effluent temperature and flow study is to be conducted by the University of Minnesota. A modeling study of effluent concentrations conducted in 1999 for a proposed restoration that included a wave barrier across the Embayment and only 50 feet from the WLSSD discharge point, showed slightly decreased effluent concentrations at the NPDES permit monitoring site on the end of Rices Point (at Blatnick Bridge) and no increase in effluent concentrations in other parts of St. Louis Bay. The study also looked at water temperature effects of the full restoration with wave barrier and predicted that the elevated water temperatures associated with the outfall would extend farther across much of the southern half of the 21<sup>st</sup> Avenue Embayment, probably averaging a third of a degree Celsius over that area, with the highest increases nearest the outfall (up to about 1 degree Celsius). As the present activity is significantly smaller than a full restoration, temperature increases are expected to be negligible.

**Comment:** “3.17 & 3.18- The document did not provide adequate detail to demonstrate how compliance with water quality standards will be achieved during construction. Also, the document did not define the point (physical distance from the project area) at which the project will meet applicable water quality standards. Section 3.17 states, in part "no special measures are planned to 'contain' sediment at the placement sites." In addition, Section 3.18 states that the turbidity created by the Project may be similar to that of storm events. These perspectives by the Project proposer do not demonstrate that all necessary measures will be taken to comply with state water quality standards. The EA/EAW should describe the monitoring that will be conducted to determine compliance with water quality standards, the frequency and the duration of monitoring, and the contingencies that will be in place in the event that water quality standards are not being met during construction.”

**Response:** Given the periodic, event-based alterations in water clarity, there is little evidence provided that suggests short-term exceedance of a turbidity standards in the St. Louis River estuary is deleterious to benthic assemblages. Nonetheless, the USACE is planning to place a turbidity curtain across the entrance to the 21<sup>st</sup> Avenue West Channel Embayment during the first year of construction activities. In addition, they plan to monitor turbidity inside and outside of the turbidity curtain during dredge material placement activities, and up to two months after. The use of a curtain in future years will be based on monitoring data from the first year of construction.

### **Wetlands and Aquatic Habitat (Sections 3.22 to 3.28)**

**Comment:** “The references cited in this portion of the document are quite dated. It is possible that this information is no longer accurate. Additional information to address this uncertainty is requested.”

**Response:** There is no intention of altering the shoreline of the embayment. All material is to be placed at depths of at least -1 foot of Low Water Datum. The general descriptions of habitat



degradation in the harbor overall, while dated, are likely still valid. The habitat description in the EA for the 21<sup>st</sup> Avenue West Embayment is likely not changed appreciably, and significant habitat has not been identified in the embayment.

### **Cumulative Impacts (Section 3.58)**

**Comment:** “The document did not adequately address cumulative potential effects, as required in Item 29 of the EAW. Also, while the EA/EAW focused on the pilot project, it provided little detail on the full scale project that will be informed by this Project. Guidance on addressing cumulative effects in environmental review may be obtained from the Minnesota Environmental Quality Board Guide to Minnesota Environmental Review Rules (May 2010):

<http://www.eqb.state.mn.us/documents/Guide%20to%20MN%20ER%20Rules-May%202010.pdf>”

**Response:** The cumulative effects section of the EA does not address those of a full scale restoration of the 21<sup>st</sup> Avenue West Channel Embayment because a full restoration is pursued it will include an environmental analysis with discussion of cumulative effects relative to the full restoration of the site. The current activity will inform such cumulative effects discussion, which in the event that full restoration were not pursued, will be irrelevant.

### **Attachment 1**

**Comment:** “The term “mixing zone” was used several times on page 8 of Attachment 1, but the term was not defined in the attachment or discussed in the EA/EAW. Part II. f. of Attachment 1 states, “The placement operation would be conducted to meet applicable water quality standards outside [the] mixing zone.” The areal extent of the mixing zone and how water quality compliance will be ensured should be discussed during the course of this review.”

**Response:** The U.S. Army Corps of Engineers is planning to place a turbidity curtain at 21<sup>st</sup> Avenue West Channel during the first year of construction activities to analyze effects on turbidity. The curtain will be placed across the entrance to the 21<sup>st</sup> Avenue Embayment. The mixing zone would be considered the area within the turbidity curtain. The need for a turbidity curtain in future years will be based on monitoring data from the first year of construction. See also the response to “3.17 & 3.18- The document did not provide...”, above.

In addition to this written response to your comments, we are preparing our final determination on the need for an Environmental Impact Statement. We appreciate your interest in the success of this project.

cc:

Ken Westlake, EPA

Pat Carey, MPCA, Duluth

Nelson French, MPCA, Duluth

Tom Estabrooks, MPCA, Duluth

# Comments Received



# Duluth Seaway Port Authority

1200 Port Terminal Drive  
Duluth, Minnesota 55802-2609 U.S.A.  
218-727-8525 ■ Fax 218-727-6888  
E-Mail: [admin@duluthport.com](mailto:admin@duluthport.com) ■ [www.duluthport.com](http://www.duluthport.com)

April 30, 2013

**RE: EAW, Dredged Material Placement, 21<sup>st</sup> Avenue West Channel Embayment**

To Whom it May Concern:

The 21<sup>st</sup> Avenue West restoration pilot project provides an extraordinary opportunity to solve a number of related issues in the Duluth-Superior Harbor/St. Louis River Estuary.

It represents productive uses of available funding streams to develop the science and complete the necessary analyses needed to design a harbor-wide plan for de-listing the Duluth-Superior Harbor as an Area of Concern (AOC).

This collaborative project also solves the vexing issue of how to productively use the clean dredged materials pulled from our shipping channels that result from annual harbor maintenance dredging. To maintain those channels within the Port of Duluth-Superior and ensure that maritime traffic continues unimpeded, the U.S. Army Corps of Engineers removes nearly 100,000 cubic yards each year. With the harbor's disposal facility (Erie Pier) nearly full, being able to reuse dredged materials in this kind of habitat restoration project will extend the life of Erie Pier by many years.

It is important to remember that this project will result in returning clean, productive reclaimed material to the harbor from whence it came. This is recycling at its best – reusing materials that had simply silted in shipping channels by virtue of strong river currents, rainstorms and flooding.

This is some of the best, nutrient-rich material available – well suited to shallow-water habitat restoration to enhance plant life and fish populations alike – outcomes this pilot project is expected to demonstrate. And by reusing these tens of thousands of yards of dredged materials for restorative purposes rather than stockpiling it at Erie Pier, we are able to eliminate the need to build an additional confined disposal facility at taxpayer expense in excess of \$30 million.

One final note...to have the greatest environmental and economic benefit, this project should begin *immediately* and not be held up by internal agency process/procedures that would extend approval times and close the window of opportunity.

Thank you for your consideration and timely review of this initiative. We urge the swiftest approval possible for the 21<sup>st</sup> Avenue West Channel Embayment.

Sincerely,

Adolph Ojard  
Executive Director



Minnesota Department of Natural Resources  
Northeast Region • 1201 East Highway 2 • Grand Rapids MN • 55744



April 30, 2013

Charles Froseth, AICP  
Land Use Supervisor  
City of Duluth  
411 West 1<sup>st</sup> Street, Room 208  
Duluth, MN 55802

**RE: Environmental Assessment Worksheet (EAW), Dredged Material placement at the 21<sup>st</sup> Avenue West Channel Embayment, Duluth, Minnesota**

Dear Mr. Froseth:

The Minnesota Department of Natural Resources Northeast Region has reviewed the Environmental Assessment Worksheet (EAW) for Dredged Material placement at the 21<sup>st</sup> Avenue West Channel Embayment, Duluth, Minnesota. The DNR would like to attach our Environmental Assessment (EA) comment letter dated March 12, 2013 for the EAW record since the two are matching documents. Most of our EA comments were addressed in the March 21, 2013 Response to EA Comments document from the Corps of Engineers. Please consider the following general remarks as well as a couple of unresolved items from sections 2.5 and 3.49.

General comments

The proposed project has the potential to develop the inter-agency process between the USACE and Area of Concern (AOC) Partners (MNDNR, MPCA and WDNR) that will be necessary to integrate the use of clean maintenance dredge material to achieve restoration outcomes in the AOC.

A project funded by USFWS and completed in 2013 identified existing conditions and developed a model that predicts habitat outcomes of potential restoration scenarios based on depth, fetch and substrate type. Site specific sampling indicates that plant growth at the site is severely limited based on condition of the substrate and other unknown variables. We understand that the St. Louis River AOC Coordinators have worked in cooperation with the USACE to develop a strategy that will utilize maintenance dredge material in a pilot project to determine the materials ability to support plant growth and patterns of sediment movement once the material is placed in the project site. The proposed action is considered an important first step to understanding the limiting factors at the site and a beginning to the understanding how clean dredge material will react when placed in these high priority restoration locations in the industrialized harbor.

Section 2.5

Placement of material during the project will be entirely below the OHW. The State of Minnesota owns all submerged lands in the Minnesota portion of the Duluth-Superior Harbor

below the ordinary low water mark in trust for people for public uses. In the case where parties have placed fill below the Ordinary High Water Level extending onto the beds of navigable waters, the state maintains ownership of the submerged lands as it continues to have an interest in the public rights to use the submerged lands.

In exerting "navigational servitude", the USCOE served submerged land owners with a notice that the land would be taken without compensation for dredged material placement. It is likely that the state has ownership of submerged lands below the Ordinary Low Water Level, therefore, the use of parcel data or tax assessor records may not be an acceptable method to determine ownership.

Section 3.49.

Could you please provide documentation of State Listed species present within 1 mile of the project area and how it was determined they would not be affected. If you have any questions, please Contact Lisa Joyal, Endangered Species Review Coordinator at 651-259-5109 for more information.

The DNR appreciates the coordination that has been occurring between the USACE and 21<sup>st</sup> Avenue Restoration Team and St. Louis River Area of Concern Coordinators throughout the development of this pilot project proposal and would like to note that your stated intent to continue this effort remains a critically important aspect of the ongoing review of this project. The identification of 21<sup>st</sup> Avenue West in the St. Louis River AOC Implementation Framework as a priority remediation to restoration site means that several entities will be working toward improvements here, thus elevating the need for effective communication to ensure actions remain consistently in alignment with Framework goals and priorities.

Thanks for the opportunity to comment. Please contact me or Rian Reed 218-999-7826 with any questions you may have.

Sincerely,



Craig L. Engwall  
Northeast Regional Director  
1201 East Hwy 2  
Grand Rapids, MN 55744  
(218) 999-7913  
craig.engwall@state.mn.us





# Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | [www.pca.state.mn.us](http://www.pca.state.mn.us) | Equal Opportunity Employer

May 1, 2013

Mr. Charles Froseth  
Land Use Supervisor  
City of Duluth  
411 West First Street, Room 208  
Duluth, MN 55802

Re: Dredged Material Placement, 21<sup>st</sup> Avenue West Channel Embayment Environmental Assessment/  
Environmental Assessment Worksheet

Dear Mr. Froseth:

This letter provides Minnesota Pollution Control Agency (MPCA) comments generated by ongoing staff review of the Environmental Assessment/Environmental Assessment Worksheet (EA/EAW) for the Dredged Material Placement, 21<sup>st</sup> Avenue West Channel Embayment project (Project) in Duluth, Minnesota. The Project consists of placement of dredged material from the Duluth-Superior Harbor into the embayment of the 21<sup>st</sup> Avenue West Channel for aquatic habitat restoration. This letter is intended to replace the previous MPCA letter on the project dated April 26, 2013.

## **Description of Proposed Action (Sections 2.4 to 2.11)**

2.7 – The document indicates that some placed materials would extend (spread) beyond the target locations; however, the EA/EAW did not describe what efforts will be undertaken to document the placement of dredged materials once placement is completed (e.g., physical locations and material thicknesses). We recommend that this type of information should be collected to aid and inform future evaluation of the stability and effectiveness of the placement.

2.9 – The proposal to add organic medium on top of the dredged material is a connected action to the proposed project and should be treated as a project component to be addressed in greater detail. This would include information regarding the physical makeup of this material and its suitability for use at shallow depths where the material may be subjected to river currents and wave energy.

2.10 & 2.11 – Biological monitoring is referenced, but the document provides no specifics regarding how the monitoring will be conducted, what parameters will be assessed and what methods will be used. Future monitoring will be important to aid in evaluating the overall effectiveness of mitigation measures.

## **Miscellaneous Details (Sections 2.12 to 2.15)**

2.12 – The EA/EAW did not indicate to what extent will the manner in which dredged material is placed (mechanical or hydraulic) affect the stability of the placed materials, dispersion of materials, or contribute to greater suspension of sediments in the water column. The environmental review should compare and contrast the advantages and disadvantages of the two methods proposed for sediment placement, especially as they relate to water quality and sediment suspension.



2.13 & 2.14 – The EA/EAW provided no specific details on the extent of the proposed land disturbing activities associated with the Project, including upland stockpiling of materials. If the Project will disturb a total of one acre or more of land, a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit (CSW Permit) is required from the MPCA. The owner and operator (usually the general contractor) are jointly responsible for obtaining and complying with the conditions of the CSW Permit. A detailed Stormwater Pollution Prevention Plan (SWPPP), containing stormwater management requirements both during and post construction, as well as erosion control and sediment control requirements during construction, must be prepared prior to submitting a CSW Permit application. CSW Permit coverage is required prior to commencing land disturbing activities (i.e., clearing, grading, filling, or excavating) relating to the Project. For an overview of this permit and program, please refer to the following factsheet: <http://www.pca.state.mn.us/publications/wq-strm2-05.pdf>. Questions regarding CSW Permit requirements should be directed to Roberta Getman at 507-206-2629.

### **Section 3.0 (Sections 3.1 to 3.2)**

3.2 – This section discussed the potential benefits that may result from the Project; however, it was also stated that beyond sediment placement, no active measures will be taken to achieve benefits to aquatic resources. The EA/EAW should discuss how benefits from the Project will be measured or determined.

### **Water Quality (Sections 3.12 to 3.21)**

The St. Louis River has numerous impairments for aquatic consumption and aquatic recreation, as listed on MPCA's 303(d) Impaired Waters List. The EA/EAW did not evaluate whether the proposed activities will in any way contribute to these impairments and/or otherwise exacerbate existing water quality or habitat conditions. This should be addressed during the course of this review.

3.15 – The project area is near the mouths of Miller Creek and Coffee Creek, and the Western Lake Superior Sanitary District (WLSSD) wastewater discharge. Miller and Coffee creeks deliver sediment and nutrients to the 21<sup>st</sup> Avenue West embayment, and the WLSSD discharge contributes warmer water temperatures and nutrients to the area. Information should be provided regarding the residence time of the embayment, how that will be changed by the Project and to what extent the project will affect the water quality of the embayment and/or change flow patterns.

3.17 & 3.18 – The document did not provide adequate detail to demonstrate how compliance with water quality standards will be achieved during construction. Also, the document did not define the point (physical distance from the project area) at which the Project will meet applicable water quality standards. Section 3.17 states, in part "no special measures are planned to 'contain' sediment at the placement sites." In addition, Section 3.18 states that the turbidity created by the Project may be similar to that of storm events. These perspectives by the Project proposer do not demonstrate that all necessary measures will be taken to comply with state water quality standards. The EA/EAW should describe the monitoring that will be conducted to determine compliance with water quality standards, the frequency and the duration of monitoring, and the contingencies that will be in place in the event that water quality standards are not being met during construction.

### **Wetlands and Aquatic Habitat (Sections 3.22 to 3.28)**

The references cited in this portion of the document are quite dated. It is possible that this information is no longer accurate. Additional information to address this uncertainty is requested.

Mr. Charles Froseth

Page 3

May 1, 2013

**Cumulative Impacts (Section 3.58)**

The document did not adequately address cumulative potential effects, as required in Item 29 of the EAW. Also, while the EA/EAW focused on the pilot project, it provided little detail on the full scale project that will be informed by this Project. Guidance on addressing cumulative effects in environmental review may be obtained from the Minnesota Environmental Quality Board Guide to Minnesota Environmental Review Rules (May 2010):

<http://www.eqb.state.mn.us/documents/Guide%20to%20MN%20ER%20Rules-May%202010.pdf>

**Attachment 1**

The term "mixing zone" was used several times on page 8 of Attachment 1, but the term was not defined in the attachment or discussed in the EA/EAW. Part II.f. of Attachment 1 states, "The placement operation would be conducted to meet applicable water quality standards outside [the] mixing zone."

The areal extent of the mixing zone and how water quality compliance will be ensured should be discussed during the course of this review.

We appreciate the opportunity to review this Project. Please provide your written responses to our comments and the notice of decision on the need for an Environmental Impact Statement. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EA/EAW, please contact Karen Kromar of my staff at 651-757-2508.

Sincerely,



Craig Affeldt  
Supervisor  
Environmental Review Unit  
Resource Management and Assistance Division

CA:bt

cc: Ken Westlake, EPA  
Pat Carey, MPCA, Duluth  
Nelson French, MPCA, Duluth  
Tom Estabrooks, MPCA, Duluth

# EQB Monitor





Publication Date: April 1, 2013  
Vol. 37, No. 7

Next Publication: April 15, 2013  
Submittal Deadline: April 8, 2013  
Submit to [EQB.Monitor@state.mn.us](mailto:EQB.Monitor@state.mn.us)

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**EQB Meetings are regularly scheduled for the third Wednesday of the month.** There may be additional special meetings as well. The calendar with scheduled meetings is located at [http://server.admin.state.mn.us/WebCalendar/month.php?cat\\_id=3&date=20120801](http://server.admin.state.mn.us/WebCalendar/month.php?cat_id=3&date=20120801). All meeting packets and agendas can be viewed at <http://www.eqb.state.mn.us/agendas.html>.

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# EQB MONITOR

## ENVIRONMENTAL ASSESSMENT WORKSHEETS

*EAW Comment Deadline: May 1, 2013*

**Project Title:** Living Word Bible Camp

**Project Description:** The Living Word Bible Camp will be a 5.72-acre developed bible camp/retreat center on a 253.6-acre property on the eastern shore of Deer Lake. The project will include an office building, new lodge, live dormitory cabins, an activity building, storage and maintenance buildings, recreational facilities, 2 docks, beach, and a trail system.

**RGU:** Itasca County

**Contact Person:** Donald Dewey  
Itasca County Environmental Services Administrator  
123 NE 4<sup>th</sup> Street  
Grand Rapids, MN 55744  
Phone: 218-327-2857  
Fax: 218-327-7331  
[don.dewey@co.itasca.mn.us](mailto:don.dewey@co.itasca.mn.us)

The *EQB Monitor* is a biweekly publication of the Environmental Quality Board that lists descriptions and deadlines for Environmental Assessment Worksheets, Environmental Impact Statements, and other notices. The *EQB Monitor* is posted on the Environmental Quality board home page at <http://www.eqb.state.mn.us/>.

Upon request, the *EQB Monitor* will be made available in an alternative format, such as Braille, large print, or audio tape. For TTY, contact Minnesota Relay Service at 800-627-3529 and ask for Department of Administration. For information on the *EQB Monitor*, contact:

Minnesota Environmental Quality Board  
520 Lafayette Road – 4<sup>th</sup> Floor  
St. Paul, MN 55155-4194  
Phone: 651-757-2873  
Fax: 651-297-2343  
<http://www.eqb.state.mn.us>



**Project Title: Dredged Material Placement, 21<sup>st</sup> Avenue West Channel Embayment**

**Project Description:** The proposed project triggers a mandatory Environmental Assessment Worksheet (EAW) under Minn. Rules 4410. The City of Duluth will act as the RGU for the EAW. The City has determined that the federal Environmental Assessment (EA) that was prepared for the project meets the information needs of an EAW. The City will take public comment, review all the information, and make a determination on the need for an Environmental Impact Statement.

The U.S. Army Corps of Engineers Detroit District proposes to place limited quantities of dredged material from maintenance dredging of the Federal navigation project at Duluth-Superior Harbor into the embayment of the 21st Avenue West Channel in Duluth, Minnesota. This will allow for evaluation of using dredged material from maintenance dredging of the harbor for aquatic habitat restoration. The 21st Avenue West Channel site is within the Duluth-Superior Harbor, which is located at the western end of Lake Superior between Duluth, Minnesota, and Superior, Wisconsin. The harbor is at the mouth of the St. Louis River, which is the second largest tributary of Lake Superior.

The EA/EAW can be viewed at:

<http://www.duluthmn.gov/planning/documents/EAWandEAforUSACEEA21Ave.pdf>

**RGU:** City of Duluth

**Contact:** Charles Froseth, Land Use Supervisor  
City of Duluth  
411 West First Street  
Room 208  
Duluth, MN 55802  
218-730-5325  
[cfroseth@duluthmn.gov](mailto:cfroseth@duluthmn.gov)

**ALTERNATIVE URBAN AREAWIDE REVIEW DRAFT AVAILABLE**

*Comment Deadline: May 1, 2013*

**Project Title: FMC Redevelopment — Fridley, Minnesota**

**Project Description:** The proposed project is the redevelopment of approximately 122 acres within the City of Fridley, MN, just south of I-694 and east of I-94 and the Mississippi River, 4800 East River Road. An existing 1.8 M square foot munitions factory on the site is proposed for initial repurposing and eventual tear down and replacement. The final density on the site is anticipated to include a range from 1.59M to 1.84M square feet of a mix of industrial (60,200 - 800,000 s.f.), office (up to 875,000 s.f.), and retail (up to 37,120 s.f.) uses.

**RGU:** City of Fridley

**Contact:** Scott Hickok  
6431 University Ave. NE  
Fridley, MN 55432  
763-572-3590  
[hickoks@ci.fridley.mn.us](mailto:hickoks@ci.fridley.mn.us)



## EIS NEED DECISIONS

The noted responsible governmental unit has determined the following project does not require preparation of an EIS. The dates given are, respectively, the date of the determination and the date the EAW notice was published in the *EQB Monitor*.

- Minnesota Pollution Control Agency, Flint Hills Resources Propylene Storage and Distribution Project, March 15, 2013 (January 21, 2013)
- Cass County Environmental Services, Bluewater Marina Expansion, March 18, 2013 (December 24, 2012)
- Cass County Environmental Services, Winnemucca Farms, March 18, 2013 (December 24, 2012)
- City of Little Falls, Little Falls/Morrison County Airport Crosswind Runway, March 18, 2013 (January 21, 2013)
- Minnesota Department of Transportation, Interstate 35E MnPASS Project (SP 6280-367) in the Cities of Little Canada, Maplewood and St. Paul, Ramsey County, March 25, 2013 (January 21, 2013)

## NOTICES

### Notice of Finding of No Significant Impact & Section 4(f) Determination

**U.S. Department of Transportation  
Federal Highway Administration  
Minnesota Division**

**FINDING OF NO SIGNIFICANT IMPACT & Section 4(f) Determination  
Minnesota State Project Number 6280-367  
I-35E MnPASS**

**In the Cities of Little Canada, Maplewood and St. Paul, Ramsey County, Minnesota**

The proposed project consists primarily of constructing a new MnPASS managed lane from Little Canada Road to Maryland Avenue and new bridges at Trunk Highway 36, County Road B, Roselawn Avenue, Larpenteur Avenue, Wheelock Parkway, and Arlington Avenue.

The Federal Highway Administration has determined the proposed improvements, as described in the Environmental Assessment (EA) will have no significant impacts to the human or natural environment. This Finding of No Significant Impact (FONSI) is based upon the EA which has been independently evaluated by FHWA and determined to adequately discuss the need, environmental issues, and impacts of the proposed project and appropriate mitigation measures.

The EA released to the public on January 21, 2013 included FHWA's intent to make a Section 4(f) de minimis impact determination regarding the Gateway Trail. The Minnesota Department of Natural Resources, the agency with jurisdiction over the Gateway Trail, concurred with FHWA's assessment of project impacts to the Gateway Trail. Therefore, it is FHWA's determination that the proposed project and mitigation measures will constitute a Section 4(f) de minimis impact to the Gateway Trail because the features, attributes, or activities qualifying the Gateway Trail for protection under Section 4(f) are not adversely affected.

The EA provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required. The FHWA takes full responsibility for the accuracy, scope, and content of the EA for the subject project.

William Lohr, P.E., Technical Services Team Leader



### Notification of Releases of Genetically Engineered Organisms

File Number	Company	Crop	Project	County
13-NO-053	Syngenta	corn	Agronomic properties	Dakota, Faribault, Goodhue, Mower(2), Rice, Waseca
13-NO-054	Dow AgroSciences	soybean	Herbicide tolerant	Fillmore
13-NO-055	Dow AgroSciences	soybean	Herbicide tolerant	Blue Earth, Chippewa, Clay, Dodge, Grant, Jackson, Lac Qui Parle, Mower, Olmsted, Otter Tail, Polk(2), Renville(3), Swift, Traverse, Wilkin, Winona
13-NO-056	Bayer CropScience	soybean	Herbicide tolerant	Becker(2), Clay
13-NO-057	Dow AgroSciences	soybean	Herbicide tolerant	Renville(2)
13-NO-058	Dow AgroSciences	soybean	Herbicide tolerant	Brown, Cottonwood, Dakota(2), Fillmore(4), Freeborn, McLeod, Olmsted, Redwood, Sibley, Waseca, Wilkin, Winona
13-NO-059	Dow AgroSciences	soybean	Herbicide tolerant	Benton(6), Blue Earth, Clay, Faribault, Goodhue, Le Sueur, Pope, Redwood(4), Rice, Sherburne, Stearns
13-NO-060	M.S. Technologies	soybean	Herbicide tolerant	Blue Earth, Clay, Grant, Kandiyohi, Lac Qui Parle, Norman, Renville(3), Rice, Sibley, Stevens, Traverse, Yellow Medicine
13-NO-061	J.R. Simplot	potato	Processing characteristics, fungal disease resistance	Sherburne
13-NO-062	Dow AgroSciences	corn	Herbicide tolerant, Agronomic properties	Brown(2), Fillmore, Houston
13-NO-063	Dow AgroSciences	soybean	Insect resistance, Herbicide tolerant	Blue Earth, Chippewa, Clay, Dodge, Grant, Jackson, Lac Qui Parle, Mower, Olmsted, Otter Tail, Polk(2), Renville(3), Swift, Traverse, Wilkin, Winona
13-NO-064	M.S. Technologies	soybean	Herbicide tolerant	Blue Earth, Clay, Grant, Kandiyohi, Lac Qui Parle, Norman, Renville(3), Rice, Sibley, Stevens, Traverse, Yellow Medicine
13-NO-065	Syngenta	corn	Insect resistance, Herbicide tolerant	Goodhue

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